



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed June 11, 2015, under Wis. Stat. § 49.85(4), and Wis. Admin. Code §§ HA 3.03(1), (3), to review a decision by the Rock County Department of Social Services in regard to FoodShare benefits (FS), a telephonic hearing was held on August 19, 2015, at Janesville, Wisconsin. At the request of petitioner, hearings set for July 1, 2015 and July 16, 2015 were rescheduled.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED] ES Supervisor
Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. The petitioner's father is [REDACTED] who was the casehead and received FoodShare benefits.
3. On or about April 12, 2013, [REDACTED] completed his six month report form (SMRF), and falsely reported that his daughter, [REDACTED], resided in his home and that they purchased and prepared meals together.

4. The county agency sent FS overpayment notices to the [REDACTED] and the petitioner stating that they received a FS overpayment of \$966 due to failure to timely report earned income.
5. The Department sent an April 11, 2014 tax intercept to petitioner at an incorrect address in the amount of \$894 stating that the FS tax intercept may intercept any tax refunds or credits due the petitioner due to an underlying FS overpayment notice of November 25, 2013 from the period of April 12, 2013 to June 30, 2013.
6. During the August 19, 2015 hearing, petitioner provided a July 13, 2015 notarized letter from her father, [REDACTED], which stated: "I, [REDACTED], was not physically sharing a residence with [REDACTED] during the time I was collecting foodshare benefits. [REDACTED] was not aware that I had added her to my foodshare account."
7. After reviewing the notarized letter from [REDACTED] and hearing the testimony of petitioner, the county agency representative stipulated that the agency would remove the petitioner from any liability against the petitioner in regard to the April 11, 2014 FS tax intercept action (or underlying FS overpayment), as stated in Finding of Fact #5 above. Instead, the county agency will only pursue the FS intercept against [REDACTED].

THEREFORE, it is

ORDERED

The matter is remanded to the county agency (**Attention: ES Supervisor [REDACTED]**) with instructions to take the necessary administrative actions to: a) remove any and all FS overpayment actions against the petitioner as stated above in Finding of Fact #7; b) certify to the Department of Revenue that it is withdrawing any and all FS overpayment claims against the petitioner related to the underlying FS overpayment; and c) the Department should return any funds to the petitioner which have already been incorrectly intercepted as a part of the FS interception action, within 10 days of the date of this Decision.

REQUEST FOR A REHEARING


You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).


The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 27th day of August, 2015

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 27, 2015.

Rock County Department of Social Services
Public Assistance Collection Unit